

§ 58-30-165. Assessments.

(a) As soon as practicable but not more than two years from the date of an order of liquidation under G.S. 58-30-105 of an insurer issuing assessable policies, the liquidator shall make a report to the Court setting forth:

- (1) The reasonable value of the assets of the insurer;
- (2) The insurer's probable total liabilities;
- (3) The probable aggregate amount of the assessment necessary to pay all claims of creditors and expenses in full, including expenses of administration and costs of collecting the assessment; and
- (4) A recommendation as to whether an assessment should be made and in what amount.

(b) Upon the basis of the report provided in subsection (a) of this section, including any supplements and amendments thereto, the Court may levy one or more assessments against all members of the insurer who are subject to assessment. Subject to any applicable legal limits on assessability, the aggregate assessment shall be for the amount that the sum of the probable liabilities, the expenses of administration, and the estimated cost of collection of the assessment, exceeds the value of existing assets, with due regard given to assessments that cannot be collected economically.

(c) After a levy of assessment under subsection (b) of this section, the liquidator shall issue an order directing each member who has not paid the assessment pursuant to the order, to show cause why the liquidator should not pursue a judgment therefor.

(d) The liquidator shall give notice of the order to show cause by publication or by certified mail to each member liable thereunder mailed to his last known address as it appears on the insurer's records, at least 20 days before the return day of the order to show cause.

(e) If a member does not appear and serve duly verified objections upon the liquidator on or before the return day of the order to show cause under subsection (c) of this section, the Court shall make an order adjudging the member liable for the amount of the assessment against him pursuant to subsection (c) of this section, together with costs, and the liquidator shall have a judgment against the member therefor. If on or before such return day, the member appears and serves duly verified objections upon the liquidator, the Commissioner may hear and determine the matter or may appoint a referee to hear it and make such order as the facts warrant. In the event that the Commissioner determines that such objections do not warrant relief from assessment, the member may request the Court to review the matter and vacate the order to show cause.

(f) The liquidator may enforce any order or collect any judgment under subsection (e) of this section by any lawful means. (1989, c. 452, s. 1; 2009-172, s. 3.)